IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9172 OF 2004

Shri Jocky Peter Pinto .... Petitioner

Versus

Shri Harcharansingh Harjit Singh Siddhu..Respt
..

Mr.A.S.Khandeparkar for Petitioner

Mr.R.D.Mishra for Respondent

CORAM : A.S.Oka, J

DATE: 10th December,2004

P.C.:

1. After arguing the petition for sometime, learned counsel Mr. Khandeparkar appearing for the petitioner on instructions of the wife and C.A. of the petitioner who is stated to be present in court submitted that the petitioner will not press the petition on merits and considering the fact that the premises are residential premises, time to vacate of two years may be granted. He submitted that age of the petitioner is 70 years and is residing in the suit premises for last several years.

2. Learned counsel for the respondent submitted that a reasonable time to vacate may be granted considering the fact that the age of the Respondent is 75 years.

3. Considering the fact that the petitioner is occupying the suit residential premises for a substantially long time and considering that he is not pressing the petition on merits, time of two years to vacate the suit premises deserves to be granted subject to filing usual undertaking.

4. Hence, writ petition is rejected as not pressed with no order as to costs.

5. Notwithstanding the rejection of the writ petition, the decree for possession shall not be executed till 30th November, 2006 subject to the condition of the petitioner and all his

adult family members filing usual undertaking to vacate in this court within three weeks from today. The petitioner is directed to serve copy of the undertaking/undertakings on the advocate appearing for the respondent.

6. If the undertaking is not filed within the stipulated time, decree for possession shall forthwith become executable.

7. The trial court will permit the deposit of arrears of rent by the petitioner.

8. Parties and the concerned court to act upon an authenticated copy of this order.

A.S.OKA, J